

Applicant: Kevin L. Parsons

Application No.: 10/615,316

Filed: July 8, 2003

Date: August 3, 2004

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REMARKS

In response to the Office Action mailed April 15, 2004 Applicant has amended claims 48, 60, 67 and 69 to better define the present invention. Applicant encloses herewith a Terminal Disclaimer. Further prosecution of the present application and reconsideration and withdrawal of the rejections of the claims are respectfully requested.

The present invention concerns a flashlight comprising an LED, a power source, a body adapted to receive the LED and the power source, a switch, a side cover disposed on the body and a decorative medallion disposed in the side cover. The medallion, as per the definition of medallion and as now clearly noted in the amended claims, is opaque and thus cannot serve to function as a lens or light diffusing element.

The Office Action has rejected claims 48-59, 60-66, 67 and 68, and 69-80 under 35 USC section 103(a) as being unpatentable over Padden (U.S. Patent No. 5,893,631) in view of Beinbrech (U.S. Patent No. 4,087,570). While Padden discloses a flashlight having an LED, battery, switch and side cover, it does not disclose a medallion or a medallion on the flashlight. Beinbrech teaches both the use of medallions and lenses, but does not teach the use of a flashlight or the use of a *medallion* with a light source. Instead, Beinbrech teaches the use of a **lens** 68, which the Office Action has confused for a medallion. The lens 68 shown in Figures 8 and 9 of the '570 patent, cited by the Office Action is not a medallion. A medallion, as explained above, is not used to focus or diffuse light, it is instead is a decorative element, typically made of materials through which light cannot pass. The Beinbrech disclosure teaches the use of a lens in association with a light source to create an illuminated indicator 60, such as used on radio dials. Beinbrech does not teach the use of a *medallion* in association with a light source. As such, no one having ordinary skill in the art would use the teachings of Beinbrech in association with the

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teachings of Padden to arrive at the present invention.

It is believed that the remainder of the rejections, concerning the dependent claims and the other independent claims, are obviated by these amendments and remarks. Notably, no persons having ordinary skill in the art would make the lens of Beinbrech out of metal as a metal lens would transmit no light making the use of an LED within Beinbrech nonsensical. There is no direction in Beinbrech or Padden which would lead anyone having ordinary skill in the art to combine the two into a flashlight with a medallion. Further, the present invention is not designed to provide a decorative article that illuminates in the dark as shown in Beinbrech (that is an article having a light that is emitted and/or diffused through a decorative lens), instead it is a flashlight with a decorative *opaque* medallion set into its side.

While the rejections of all of the above claims are made over a series of paragraphs within the body of the Office, it is believed that the amendments and remarks made above sufficiently distinguish the present invention from the cited art.

Claims 48-59, 60-66, 67 and 68, and 69-80 are rejected under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claim 4 of U.S. Patent No. 6,190,018 in view of Breinbrech. Applicant earnestly believes that it has distinguished the present application from any combination including Breinbrech. However, in order to advance the prosecution of the present application, Applicant states that it is the owner of a 100% interest in the present application and the cited patent (US 6,190,018) and encloses herewith a terminal disclaimer in compliance with 37 CFR 1.321(c).

A check for \$55.00 to cover the fee for the Terminal Disclaimer is enclosed herewith. It is believed that no other fees or petitions are necessary. However, should any additional fee be needed, please charge our Deposit Account No. 23-0920, and deem this paper to be the required petition.

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Applicant hereby respectfully requests reconsideration and continued examination. A sincere effort has been made to overcome the Action's rejections and to place the application in allowable condition. Applicant invites the Examiner to call Applicant's attorney to discuss any aspects of the invention that the Examiner may feel are not clear or which may require further discussion.

In view of the foregoing remarks and amendments, it is believed that the subject application is now in condition for allowance, and an early Notice of Allowance is respectfully requested.

Respectfully submitted,



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August 3, 2004

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Daniel M. Gurfinkel

August 3, 2004
DATE